IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CRIMINAL APPEALLTE JURISDICTION.

CRIMINAL APPEAL NO. 355 OF 2003

Chintya Janya Valavi ....Appellant.
V/s (Orig.Accd.)
The State of Maharashtra ....
Respondents.

None appears Adv. for the appellant.

Mr.V.B.Konde Deshmukh, APP for the State.

CORAM: V.G. PALSHIKAR
AND
SMT.NISHITA MHATRE, J.

9th Oct., 2006.

ORAL JUDGMENT: (Per Palshikar, J.)

Being aggrieved by the judgment and order of conviction and sentence passed by the learned IInd Ad-hoc Additional Sessions Judge, Palghar in Sessions Case No.300 of 2001 on 11.4.2002 the appellant-accused has preferred this appeal on the grounds mentioned in the memo of appeal.

2. In this case the accused was represented by an advocate appointed by this Court who was absent when the matter was first listed for hearing on Saturday 7.10.2006. It was adjourned till today to enable the advocate to appear. Even today when this matter was called out none appeared. The appeal is pending for the last three

years. In such circumstances we need not wait for the advocate to come. We will dispose of the appeal on merits after scrutinizing the entire record along with additional public prosecutor. Record was thus perused, evidence on record was reappreciated.

3. The prosecution case as disclosed by this reappreciation stated briefly is that on 1.4.2001 at about 2.00 to 3.00 a.m. witness Sudam Gaund heard cries of the appellant. Therefore he called his neighbour Rama Lakhat and went to the house of the appellant. They saw the body of deceased Manakibai lying near the door; and the appellant was sitting near the body. It is alleged that the appellant informed the neighbours that he had a quarrel with his wife and he assaulted her below the kakad tree and murdered her with a shival.

4. Thereafter the police patil was informed and after verification of the facts informed Manor police station. The crime was registered vide CR No.35/01 and the police machinery was put into motion.

5. API Lokhande prepared inquest and spot panchnama. He sized incriminating articles having blood stains. He arrested the appellant from the house and seized the clothes on his person. The dead body was sent for post mortem. The statements of witnesses were recorded.

6. It is alleged that the appellant made a voluntary statement and pointed out the place from where a shival was recovered and seized by

the police. The seized muddemal was forwarded to the Forensic Laboratory. After completion of investigation, the charge sheet was filed and the case came up for trial. During the trial, the learned Judge found the appellant guilty under section 302 of Indian Penal Code. Hence the present appeal.

7. P.W.1 is doctor Nitin Mokashi who conducted post mortem of the dead body four punctured wounds and finger marks on her neck. He has testified that the cause of death haemorhage leading to asphyxia. P.W.2-Rupesh Gharat is panch witness to the recovery of weapon but he is declared hostile. P.W.3-Sadashiv Warangade is the Police Patil of the village. He was informed by the villager that the accused caused death of his wife. He therefore went to the house of the accused, saw dead body there and accused was also sitting in the house near the wall. The accused told him i.e. the witness that he killed his wife because she had illicit relations with another man. The Police Patil thereafter left and in the early morning lodged First Information Report. P.W.4-Ananta Kakad is panch witness who proves inquest panchnama, spot panchnama and the arrest panchnama. P.W.5-Sudam Gaud is hostile. P.W.6-Rama Lakhat was the person to whom the accused made extra judicial confession regarding he have murdered his wife. There is nothing in cross examination of this witness to require his testimony being rejected. P.W.7 is Ladka Gaund

whose evidence is inconsequential and P.W.8-Ananda Lokhande is the investigating officer.

8. From the above evidence it will be seen that the accused had made extra judicial confession clearly admitting the guilt to two persons who were living in the neighborhood. The instrument with which injuries were caused was duly seized. The doctor has clearly opined that the death was caused because of the injuries and throttling. In such circumstances it cannot be said that the conclusion of guilt as recorded by the learned trial Judge in any manner wrong. We endorse all the findings given by the learned Judge as we also independently are of the opinion that this is clear case where murder is committed by the accused and is duly proved by the prosecution. In the result, therefore appeal fails and is dismissed.